

Senate Bill 15

By: Senators Douglas of the 17th, Johnson of the 1st, Goggans of the 7th, Rogers of the 21st, Hawkins of the 49th and others

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

To amend Chapter 8 of Title 12 of the Official Code of Georgia Annotated, relating to waste management, so as to provide for quarantining and certified clean up of sites where methamphetamine was unlawfully manufactured; to define certain terms; to provide procedures for determining whether to quarantine property or any portion thereof; to provide for notices of quarantine and the filing thereof in the offices of clerks of superior courts; to provide for lists of persons authorized to perform testing and certify fitness of previously quarantined property; to provide for filing of certificates of fitness in the offices of clerks of superior courts; to provide for lifting of quarantines; to provide for continued applicability of other provisions of said chapter; to provide for damages; to provide for immunity from liability; to provide for rules and regulations; to provide for implementation to be contingent upon funding; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 8 of Title 12 of the Official Code of Georgia Annotated, relating to waste management, is amended by adding a new article to read as follows:

"ARTICLE 10

12-8-220.

As used in this article, the term:

(1) 'Board' means the Board of Natural Resources.

(2) 'Director' means the director of the division.

(3) 'Division' means the Environmental Protection Division of the department.

(4) 'Local governing authority' means the municipal governing authority with respect to property located in a municipality and means the county governing authority with respect to property located in an unincorporated area.

12-8-221.

(a) Any real property, including but not limited to any structure or room in any structure on such property, wherein the manufacture of methamphetamine in violation of Code Section 16-13-31 occurs or has occurred may be quarantined, to the extent necessary and no more, by a county department of health after notice by the local law enforcement agency having jurisdiction where such property is located. Such local law enforcement agency shall notify the county department of health within 24 hours after the laboratory has been seized.

(b) Upon notice from the local law enforcement agency, a determination shall be made with respect to whether to quarantine the property or a portion thereof according to the following procedures:

(1) Within three business days after notice from the local law enforcement agency, the county health department shall order a test of the property to be conducted by a person qualified under Code Section 12-8-222 at the expense of the owner of the property. If the property owner refuses to cooperate with testing, the county health department shall order a quarantine. If this test shows that the property or a portion thereof is unsafe for human use, the owner may agree to an immediate order of quarantine by the county health department or may order a second test of the property as provided in paragraph (2) of this subsection;

(2) An owner who does not agree to a quarantine after a first positive test under paragraph (1) of this subsection may, within six business days after the report of the first test results, order another test of the property to be conducted by a person qualified under Code Section 12-8-222 at the expense of the owner of the property. If the second test under this paragraph shows that the property or a portion thereof is unsafe for human use, the property or portion thereof shall be quarantined by order of the county health department. If the second test under this paragraph shows that the property or portion thereof is safe for human use, a third test shall be conducted as provided in paragraph (3) of this subsection; and

(3) Where two conflicting tests have been reported under paragraphs (1) and (2) of this subsection, the county health department shall, within ten business days after the report of the second test, order a third test of the property to be conducted by a person qualified under Code Section 12-8-222 at the expense of the local governing authority. If the third test under this paragraph shows that the property or a portion thereof is unsafe for human use, the property or portion thereof shall be quarantined by order of the county health department. If the third test under this paragraph shows that the property or portion thereof is safe for human use, no quarantine shall be ordered.

The property or portion thereof in question shall be considered unfit for human habitation during the pendency of proceedings under this subsection. A person charged with any crime related to the alleged unlawful manufacture of methamphetamine shall not have standing to order any other tests provided for in this subsection.

(c) A county department of health which quarantines the property shall be responsible for posting signs indicating that the property has been quarantined.

(d)(1) Any person who owns or holds a lien against property quarantined pursuant to this Code section may file a petition with the local governing authority. Such a petition shall be for the purpose of requesting that the local governing authority order the quarantine of such property be lifted for one of the following reasons:

(A) The property was wrongfully quarantined; or

(B) The property has been properly cleaned and all contamination from the manufacture of methamphetamine removed in accordance with rules and regulations promulgated pursuant to Code Section 12-8-229, and it is now safe for human use, but the county department of health that imposed the quarantine refuses to lift it.

(2) The local governing authority or its designee shall take such proof as it deems necessary to rule upon a petition filed pursuant to this subsection and, after hearing such proof, may grant the petition and lift the quarantine or deny the petition and maintain the quarantine.

(e) Any person who knowingly and willfully inhabits quarantined property or property deemed unfit for habitation during proceedings under subsection (b) of this Code section, offers such property to the public for temporary or indefinite habitation, or removes any signs or notices of such quarantine shall be guilty of a misdemeanor.

(f) Any person who has knowledge that property is being used or has been used in the unlawful manufacture of methamphetamine shall have a duty to report such knowledge to the appropriate local law enforcement agency; and no person shall have any civil liability for making such a report in good faith.

12-8-222.

The director shall compile and maintain a list of persons who are certified industrial hygienists in accordance with Chapter 21A of Title 43 and are qualified by the director for purposes of this article. Such persons shall be authorized to test properties in which a process intended to result in the manufacture of methamphetamine has occurred in violation of Code Section 16-13-31 to determine if a property is safe for human use. Such property may include, but is not limited to, leased or rented property such as a hotel or motel room, rented home or apartment, or any residential property.

12-8-223.

Any person who owns or holds a lien against property quarantined pursuant to Code Section 12-8-221 may contact a certified industrial hygienist qualified by the director to perform appropriate testing on such property to determine whether contamination is present. The property shall remain quarantined until a certified industrial hygienist named on the director's list compiled pursuant to Code Section 12-8-222 certifies to the quarantining county department of health that the property is safe for human use.

12-8-224.

(a) Whenever any real property, including but not limited to any structure or room in any structure on such property, has been quarantined by a county department of health pursuant to Code Section 12-8-221 due to the manufacture of methamphetamine, and such quarantine has been in effect for 120 days or more without a certificate of fitness issued in accordance with subsection (a) of Code Section 12-8-225 having been presented to the county department of health, an agent of the county department of health quarantining the property shall file a signed and notarized notice of methamphetamine lab quarantine in the office of the clerk of superior court in the county in which the real property or any portion of the real property lies. The clerk of court shall record such notice in the record series containing the title deeds and shall index the notice with the owner or owners of the real property as the grantor and with the local law enforcement agency giving the notice as the grantee. No fee shall be collected for this filing.

(b) A notice in a form substantially as follows is sufficient to comply with subsection (a) of this Code section:

'Notice of Methamphetamine Lab Quarantine:

Notice is hereby given that an illegal laboratory for the manufacture of methamphetamine was seized at the location described below on (date). This real property has been quarantined by (name of county department of health) pursuant to O.C.G.A. Section 12-8-221. This property shall remain quarantined until a certified industrial hygienist named on the list of the director of the Environmental Protection Division of the Department of Natural Resources pursuant to O.C.G.A. Section 12-8-222 certifies that the property is safe for human use.

Name of Property Owner or Owners:_____

Property Address:_____

Apartment or Unit Number (if applicable):_____

Description of Property Sufficient to Identify:_____

Name of Person and Agency Giving Notice:_____

Signature of Person Giving Notice Title/Position: _____

Date: _____

Notary Public: _____ (Seal)'

12-8-225.

(a) Whenever a certified industrial hygienist named on the director's list pursuant to Code Section 12-8-222 determines that the property quarantined pursuant to Code Section 12-8-221 is safe for human use, based upon the standards prescribed pursuant to this article, such person or entity shall issue a signed and notarized certificate of fitness.

(b) An owner of or a holder of a lien against the real property may file the certificate of fitness in the office of the clerk of superior court in the county in which the real property or any portion of the property lies. The clerk of court shall record such certificate in the record series containing the title deeds and shall index the certificate with the owner or owners of the real property as the grantee and the county department of health that issued the quarantine as the grantor. A copy of such certificate shall be attached to the notice previously filed for such property under Code Section 12-8-224. The fee for such filing shall be as for notices and certificates pertaining to real estate in accordance Code Section 15-6-77.

(c) A form substantially as follows shall be sufficient to comply with subsection (a) of this Code section:

'Certificate of Fitness:

Notice is hereby given that the real property quarantined by (name of county department of health) pursuant to O.C.G.A. Section 12-8-221 at the location described below has been tested by a certified industrial hygienist named on the list of the director of the Environmental Protection Division of the Department of Natural Resources compiled pursuant to O.C.G.A. Section 12-8-222.

I, the undersigned, hereby certify that the real property at this location is safe for human use pursuant to O.C.G.A. Section 12-8-222 in accordance with the rules and regulations of the Department of Natural Resources as currently are in effect.

Name of Property Owner or Owners: _____

Property Address: _____

Apartment or Unit Number (if applicable): _____

Description of Property Sufficient to Identify: _____

Name of Certified Industrial Hygienist: _____

Signature of Certified Industrial Hygienist: _____

Date: _____

166 Notary Public: _____ (Seal)'

167 12-8-226.

168 Nothing in this article shall relieve any person who has an interest in property quarantined
169 pursuant to this Code section from any other applicable obligations imposed under this
170 chapter.

171 12-8-227.

172 Any person who owns or holds a lien against property that has been quarantined pursuant
173 to Code Section 12-8-221 may in a civil action recover damages, including but not limited
174 to all costs of clean up for purposes of this article, incurred by such owner or lienholder as
175 a result of the manufacture of methamphetamine on such property by a tenant or some
176 other person who is not an owner of such property or a holder of a lien against such
177 property.

178 12-8-228.

179 Any person who owns or holds a lien against property for which a certificate of fitness has
180 been filed in accordance with Code Section 12-8-225 shall not be liable to any tenant or
181 grantee who occupies or takes possession of such property for personal injury or property
182 damages allegedly caused by exposure on or after the date of such filing to contaminants
183 associated with the previous manufacture of methamphetamine which resulted in such
184 property being quarantined.

185 12-8-229.

186 The board shall promulgate such rules and regulations as are reasonable and necessary to
187 implement this article, including but not limited to rules and regulations concerning the
188 inspection, testing, decontamination standards for methamphetamine and its precursors or
189 other contaminants related to the unlawful production of methamphetamine, and quarantine
190 of property affected by this article; provided, however, that the decontamination standard
191 for methamphetamine shall be a specified amount not exceeding 0.1 microgram of
192 methamphetamine per 100 square centimeters of interior building surface material to which
193 an inhabitant may be exposed.

194 12-8-230.

195 This article shall not be implemented until such time as the Office of Planning and Budget
196 gives public notice, with a copy to each county health department and each clerk of

197 superior court, that state funds have been appropriated and made available to county health
198 departments to cover the costs of implementing this article."

199 **SECTION 2.**

200 The Act shall become effective on the first day of the month following the month in which
201 it is approved by the Governor or becomes law without such approval.

202 **SECTION 3.**

203 All laws and parts of laws in conflict with this Act are repealed.